

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

HOLCOMBE, et. al,

Plaintiffs

vs.

UNITED STATES OF
AMERICA,

Defendant

NO. 5:18-CV-00555-XR

(consolidated cases)

**NOTICE OF SETTLEMENT ON APPEAL: UNOPPOSED
MOTION FOR INDICATIVE RULING TO EFFECT TERMS
OF SETTLEMENT**

The parties hereby provide notice of their settlement of all matters in dispute, subject to this Court's willingness to take certain action necessary to effectuate the settlement. Accordingly, pursuant to Rule 62.1 of the Federal Rules of Civil Procedure, the Plaintiffs request an indicative ruling that the Court will, upon remand from the Fifth Circuit Court of Appeals, proceed with such requested action.

While on appeal, the parties participated in mediation discussions under the Circuit Mediation Program, and they reached a settlement agreement subject to court approval and final approval by the Attorney General of the United States of America, the terms of which require certain action by this Court. Specifically, one of the terms of settlement requires Plaintiffs to obtain, at their expense, approval of the settlement by a court(s) of competent

jurisdiction on behalf of any minor or incompetent-adult Plaintiff. In the above-styled consolidated cases, there are seven minors and one incompetent adult that require the Court's approval:

PARTY	CAUSE	GUARDIAN
J.M.	5:18-cv-00949-XR	Lisa McNulty
E.W.	5:19-cv-01301-XR	Colbey Workman
O.C.	5:19-cv-00691-XR	David Colbath
R.T.	5:19-cv-00706-XR	Dalia Lookingbill
R.W.	5:19-cv-00972-XR	Chancie McMahan
Z.Z.	5:19-cv-00691-XR	Elizabeth Braden
E.J.H.	5:20-cv-00368-XR	John Porter Holcombe
Joe Holcombe	5:18-cv-00555-XR	Not Applicable ¹

Court approval will likely require the Court to appoint a Guardian ad Litem and rule on a Motion to Approve Settlement. *See* Fed. R. Civ. P. 17(c)(2)

¹ Mr. Holcombe is 91 years old. He recently developed health concerns that indicate Court approval of his proposed settlement would be appropriate and beneficial. Accordingly, and in an abundance of caution, Plaintiffs respectfully request that the Court review and approve Mr. Holcombe's proposed settlement. Although Mr. Holcombe does not have a legal guardian, Plaintiffs expect that the required paperwork affecting the appointment of Mr. Holcombe's Durable Power of Attorney (his daughter, JoCheryl Holcombe) will be received by the time this Court is requested to review the proposed settlement, giving her full authority to act with regard to Mr. Holcombe's legal affairs.

(allowing court appointment of guardian). *See* **Exhibit 1** (Plaintiffs' Unopposed Motion to Appoint Guardian).

Plaintiffs therefore respectfully request that this Court enter the attached proposed Order indicating that it will accept the limited remand from the Court of Appeals and proceed to appoint the Guardian and rule on the Motion to Approve Settlement.

CERTIFICATE OF CONFERENCE

Plaintiffs conferred with the United States, and they do not oppose this motion.

/s/ Jamal K. Alsaffar

Jamal K. Alsaffar

Respectfully Submitted,

/s/ Jamal K. Alsaffar

Jamal K. Alsaffar

JAlsaffar@nationaltriallaw.com

Texas Bar No. 24027193

Tom Jacob

TJacob@nationaltriallaw.com

Texas Bar No. 24069981

**Whitehurst, Harkness, Brees, Cheng,
Alsaffar & Higginbotham & Jacob
PLLC**

7500 Rialto Blvd, Bldg. Two, Ste 250
Austin, TX 78735

Office 512-476-4346

Fax 512-476-4400

Counsel for Vidal, McKenzie, Solis,
McNulty, and Wall

/s/ Jason P. Steed

Jason P. Steed

JSteed@kilpatricktownsend.com

Texas Bar No. 24070671

**Kilpatrick Townsend & Stockton
LLP**

2001 Ross Avenue, Suite 4400

Dallas, TX 75201

Office 214-922-7112

Fax 214-853-5731

Counsel for Vidal, McNulty, and Wall

/s/ April A. Strahan

April A. Strahan

april@ammonslaw.com

Texas Bar No. 24056387

Robert E. Ammons

rob@ammonslaw.com

Texas Bar No. 01159820

The Ammons Law Firm

3700 Montrose Blvd.

Houston, TX 77006

Office 866-523-1603

Fax 713-523-4159

Counsel for Holcombe, Ramsey, Curnow
& Macias

/s/ Daniel J.T. Sciano

Daniel J.T. Sciano

DSciano@tsslawyers.com

Texas Bar No. 17881200

Tinsman & Sciano

10107 McAllister Freeway

San Antonio, TX 78216

Office 210-225-3121

Fax 210-225-6235

Counsel for Amador

/s/ Daniel Barks

Daniel D. Barks, *pro hac vice*

ddb@speiserkrause.com

Speiser Krause, P.C.

5555 Glenridge Connector, Suite 550

Atlanta, GA 30342

Office 571-814-3344

Fax 866-936-6382

Counsel for Holcombe

/s/ Mark Collmer

Mark W. Collmer

drcollmer@aol.com

Texas Bar No. 04626420

Collmer Law Firm

3700 Montrose

Houston, TX 77006

Office 713-337-4040

Counsel for Holcombe

/s/ Dennis Peery

Dennis Charles Peery

d.peery@tylerpeery.com

Texas Bar No. 15728750

R. Craig Bettis

cbettis@tylerpeery.com

Texas Bar No. 24040518

Tyler & Peery

5822 West IH 10

San Antonio, TX 78201

Office 210-774-6445

Counsel for Uhl

/s/ Tim Maloney

Tim Maloney

Texas Bar No. 12887380

timmaloney@yahoo.com

Paul E. Campolo

pcampolo@maloneyandcampolo.com

Texas Bar No. 03730150

Maloney & Campolo, L.L.P.

926 S. Alamo

San Antonio, TX 78205

Office (210) 465-1523

Counsel for Ramsey

/s/ George LeGrand

George LeGrand

tegrande@aol.com

Texas Bar No. 12171450

Stanley Bernstein

Texas Bar No. 02225400

LeGrand & Bernstein

2511 N. Saint Mary's St.

San Antonio, Texas 78212

Office 210-733-9439

Fax 510-735-3542

Counsel for Wall & Solis

/s/ Joseph M. Schreiber

Joseph M. Schreiber

joe@lawdoneright.net

Texas Bar No. 24037449

Erik A. Knockaert

erik@lawdoneright.net

Texas Bar No. 24036921

Schreiber | Knockaert, PLLC

701 N. Post Oak Rd., Suite 325

Houston, TX 77024

Phone (281) 949-8904

Fax (281) 949-8914

Counsel for Brown

/s/ Justin Demerath

Justin Demerath

jdemerath@808west.com

Texas Bar No. 24034415

O'Hanlon, Demerath & Castillo

808 West Ave.

Austin, TX 78701

Office 512-494-9949

Counsel for Corrigan, Braden,
Warden, Stevens, Pachal, McCain, &
Poston

/s/ Jason Webster

Jason Webster

jwebster@thewebsterlawfirm.com

Texas Bar No. 24033318

The Webster Law Firm

6200 Savoy

Suite 640

Houston, TX 77036

Counsel for Lookingbill

/s/ Brett Reynolds

Brett T. Reynolds

btreynolds@btrlaw.com

Texas Bar No. 16795500

Brett Reynolds & Associates, P.C.

1250 N.E. Loop 420, Suite 420

San Antonio, TX 78219

(210)805-9799

Counsel for Workman, Colbath, and
Harris

/s/ Marion M. Reilly

Marion M. Reilly

Hilliard Munoz Gonzales, L.L.P.

719 S. Shoreline - Ste 500

Corpus Christi, TX 78401

(361) 882-1612

361/882-3015 (fax)

marion@hmglawfirm.com

Counsel for McMahan

/s/ Robert Wilson

Robert Wilson

Law Office of Thomas J. Henry

4715 Fredricksburg

San Antonio, TX 78229

(210) 585-2151

(361) 985-0601 (fax)

rwilson@thomasjhenrylaw.com

Counsel for McMahan

/s/ Diego Lopez

Diego Lopez

Anderson & Associates Law Firm

2600 SW Military Drive, Suite 118

San Antonio, TX 78224

(210) 928-9999

(210) 928-9118 (fax)

diego@diegolaw.com

Counsel for Ward